

ENTERED

September 27, 2022

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CURB PLANET, INC.

VS

WELLS FARGO BANK, N.A., *et al*

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CIVIL ACTION NO. H: 20-2233

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court in the above referenced proceeding is Defendant Wells Fargo Bank's Motion to Dismiss (Doc. No. 17); Response (Doc. 18); Reply (Doc. No. 19); and Magistrate Judge Sheldon's Memorandum and Recommendation (Doc. No. 29) that the Court grant in part and deny in part Defendant's Motion. Neither party filed objections to the Memorandum and Recommendation and the time for doing so has passed.

The Court hereby **ADOPTS** the Memorandum and Recommendation (Doc. No. 29) that the Motion to Dismiss (Doc. No. 17) is hereby **GRANTED in part and DENIED in part**. Therefore, it is **ORDERED** that:

Defendant's motion to dismiss as to Plaintiff's common law claim for money had and received is **granted**;

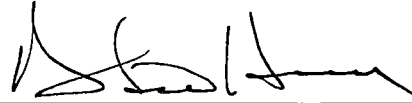
Defendant's motion to dismiss as to unjust enrichment is **denied**;

Defendant's motion to dismiss as to conversion under the Texas Business and Commerce Code is **denied**;

Defendant's motion to dismiss as to negligence and gross negligence is **granted**; and,

Defendant's motion to dismiss as to breach of fiduciary duty is **denied**.

SIGNED at Houston, Texas, this 26th day of September 2022.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', is written above a horizontal line.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE